

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Implementation of the Subscriber Carrier)	
Selection Changes Provisions of the)	CC Docket No. 94-129
Telecommunications Act of 1996)	
)	
Policies and Rules Concerning)	
Unauthorized Changes of Consumers)	
Long Distance Carriers)	

**WORLDCOM PETITION FOR RECONSIDERATION
AND CLARIFICATION**

WorldCom, Inc. (d/b/a and hereafter “MCI”) seeks reconsideration of the Commission’s refusal, as set forth in its *Third Order on Reconsideration*,¹ to set off the monies a carrier has reimbursed a consumer, when the consumer has paid charges assessed during an unauthorized conversion, when determining the amount that the violating carrier is subsequently required to disgorge to the authorized provider upon a finding of an unauthorized conversion. MCI also seeks clarification of the Commission’s discussion in the *Third Order on Reconsideration* regarding local exchange carriers’ (LECs) verification requirements.

¹ *In the Matter of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996 Policies and Rules Concerning Unauthorized Changes of Consumers’ Long Distance Carriers*, Third Order on Reconsideration and Second Further Notice of Proposed Rulemaking, CC Docket No. 94-129 (rel. Mar. 17, 2003)(*Third Order on Reconsideration*).

In the *First Order on Reconsideration*,² the Commission concluded that once a carrier has been found liable for an unauthorized conversion of a consumer's services, that unauthorized carrier is liable to the authorized carrier in an amount equal to 150% of the charges the consumer paid to the unauthorized carrier.³ In its petition for reconsideration dated September 5, 2000, among other things, MCI requested that the Commission clarify that reimbursed or credited charges will be considered "unpaid" for purposes of its liability rules or, in the very least, will be deducted from the amount the unauthorized carrier is required to pay the authorized carrier if a complaint is subsequently adjudicated and liability is determined.⁴ Otherwise, the potential for paying twice on the same charges will deter carriers from pursuing quick resolution of unauthorized conversion disputes directly with consumers who have paid charges assessed during the period their service was wrongly switched.⁵ The Commission denied MCI's request in the *Third Order on Reconsideration*. Specifically, the Commission "decline[d] to find that credited charges made to the consumer before a complaint has been filed should be considered "unpaid" when calculating liability under the Commission's slamming rules, or that the credits or reimbursements should be deducted from the amount owed by a carrier found guilty of a slam."⁶

The Commission has previously stated that it does "not intend for [its] rules to discourage carriers from providing subscribers with the most expedient relief possible."⁷

² *In the Matter of Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996 Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, First Order on Reconsideration, CC Docket No. 94-129, (2000)(*First Order on Reconsideration*).

³ 47 CFR 64.1170(b)(1).

⁴ WorldCom Petition for Reconsideration, CC Docket No. 94-129, pp. 10-11 (Sept. 5, 2000).

⁵ *Id.*

⁶ *Third Order on Reconsideration*, para. 81.

⁷ *First Order on Reconsideration*, para. 33.

Nevertheless, that is exactly what the Commission has done with regard to those consumers most in need of immediate relief—those that paid the unauthorized carrier’s charges. As a matter of expediency, carriers often credit or reimburse consumers for disputed charges, sometimes as much as 100% of the disputed charges. As a result of the Commission’s recent decision, carriers will be reluctant to do so for consumers who had paid the charges because they could ultimately be liable to the authorized carrier for an *additional* 150% of the charges initially paid by the consumer.

The Commission concluded that a company’s desire to avoid an agency determination with respect to allegations of unauthorized conversions provides sufficient incentive to satisfy the customer because the customer will therefore be unlikely to file a complaint with an agency.⁸ While MCI agrees that carriers have incentives to satisfy consumers (e.g. good customer service, good-will, cost of adjudication, etc.), the potential for double payment resulting from the Commission’s decision reduces, and in certain instances overrides, those incentives. Essentially, if the amount already reimbursed to the customer is not deducted from the damages imposed after adjudication, the carrier may ultimately pay up to 250% of the paid charges. Thus, the carrier is effectively penalized for attempting to rectify the situation with the consumer instead of forcing the consumer to wait until adjudication is complete to obtain any relief. Moreover, the Commission’s decision also provides an incentive to those consumers *who were already provided the full relief they were entitled to under the rules* to, nonetheless, pursue a complaint in order to obtain an additional 50% of the paid charges.

One-third of the 150% liability the Commission established for cases where the subscriber paid the unauthorized charges is to ensure that the subscriber is “made

whole.”⁹ As such, the authorized carrier is required to remit one-third (i.e, 50% of the paid charges) of the amount received from the unauthorized carrier to the subscriber.¹⁰ If the consumer has already received a credit or reimbursement for these charges, she has already been made “made whole” consistent with the Commission’s rule. MCI maintains that credited or reimbursed charges should be considered “unpaid” for purposes of the liability rules. However, the Commission should find that if a consumer has already been fully satisfied in a way consistent with the Commission’s rules, the carrier should not later be required to pay the portion of the 150% liability that is meant to compensate the consumer for the unauthorized conversion. Consequently, in these circumstances, the unauthorized carrier should only be liable to the authorized carrier for 100% of the paid charges.

MCI also seeks clarification on the following issue that appears in *Third Order on Reconsideration*:

“Due to the changes in the competitive landscape that have come to fruition since the adoption of the *Second Report and Order*, and based on our experiences therewith, we now find it necessary, as with other inbound carrier change calls, to require verification of carrier change requests that occur when a carrier initiates a call to a LEC.”¹¹

The Commission should clarify that this statement was only an affirmation of its prior decisions that, even when the customer initiates a call to a LEC, when a LEC makes a carrier change that benefits the LEC, or the LEC’s long distance affiliate, the customer’s authorization for that change must be verified in accordance with the Commission’s current verification rules.

⁸ *Third Order on Reconsideration*, para. 81.

⁹ *First Order on Reconsideration*, para. 17

¹⁰ *Id.*

In conclusion, the Commission should reconsider and clarify its *Third Order on Reconsideration* as discuss above.

Respectfully submitted,

WORLDCOM

/s/ Karen Reidy

Karen Reidy
1133 19th Street, NW
Washington, DC 20036
(202) 736-6489

Its Attorney

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¹¹ *Third Reconsideration Order*, para. 91.